

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, v. JUWAN SHAW, Defendant.	CRIMINAL ACTION NO. 08-476
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Baylson, J.

July 23, 2013

MEMORANDUM RE § 2255 POST CONVICTION PETITION

Defendant Juwan Shaw was convicted of interference with interstate commerce by two armed robberies that took place in 2007, and also on two Counts of using a firearm during a crime of violence under 18 U.S.C. § 924(c). The Court imposed a sentence of 408 months' imprisonment, which included a mandatory consecutive sentence of 384 months for the firearm convictions. The Third Circuit affirmed the conviction on direct appeal.

In petitioner's post conviction petition, he asserts that his attorney at trial was not effective by failing to secure suppression of identification testimony, and failing to appropriately cross examine a police officer. Neither of these claims has merit.

Under the well-known Supreme Court case of *Strickland v. Washington*, 466 U.S. 668, 1984, the defendant must show both that counsel's performance was so deficient that he was not functioning as guaranteed by the Sixth Amendment and that the counsel's errors were "so serious as to deprive the defendant of a fair trial," a trial where the result is reliable. In other words, the petitioner must show that the performance of counsel was so deficient as to deprive the petitioner of a fair trial.

As to the second factor, the defendant must show there is a reasonable possibility that but for counsel's unprofessional errors, the result of the proceeding would have been different.

Petitioner cannot make this showing on this record. The evidence against him was overwhelming. In fact, as one piece of evidence to show that petitioner's counsel was effective, there were three robberies charged against petitioner at trial, but he was only convicted of two of them. Thus, his counsel's effectiveness saved petitioner many further years of imprisonment which would have resulted if he had been convicted on all three robbery charges.

Defense counsel filed a pretrial petition to suppress the identification of one of the victims, and after an evidentiary hearing, this motion to suppress was denied. Defense counsel nonetheless made an effective cross examination of both eye witnesses at the trial, but the overall direct and circumstantial evidence was very strong.

There is no merit the claim that defense counsel did not effectively cross examine one of the police officers, whose testimony was merely corroborative of other evidence.

After review of the record, the Court will **DENY** petitioner's request for relief.

An appropriate Order follows.